

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 171

MISCELLANEOUS INSURANCE RULES

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SUBCHAPTER 1

GENERAL PROVISIONS

§16-171-101 Definitions. As used in this chapter:

"Commissioner" means the insurance commissioner.

"Designated representative" means a person authorized by the insured to act on the insured's behalf.

"Enrollee" means a person covered for health insurance by the insurer.

"Insured" means a person covered for insurance by the insurer.

"Insurer" means a person defined as an insurer pursuant to section 431:1-202, Hawaii Revised Statutes ("HRS").

"Managed care plan" means a health plan defined as a managed care plan pursuant to section 431:14F-102, HRS. [Eff] (Auth: HRS §431:2-201) (Imp: HRS §§431:1-202, 431:2-102, 431:14F-102)

§16-171-102 Payments to designated representatives; notice to insureds.

Any insurer making a payment pursuant to a lawsuit, award, arbitration, settlement, or judgment to the insured's designated representative shall immediately provide written notice to the insured that a payment has been made. The notice shall provide:

- (1) The date the payment was made;
- (2) The reason why the payment was made to the designated representative;
- (3) The amount paid; and

- (4) The name of the designated representative to whom payment was made. [Eff] (Auth: HRS §431:2-201) (Imp: HRS §431:10-204)

SUBCHAPTER 2

HEALTH PROVISIONS

§16-171-201 Disclosure to enrollee or authorized representative. (a) Upon written request and payment of fifty dollars to a managed care plan by an enrollee or authorized representative, a managed care plan shall deliver, within ten business days of that request, to that enrollee or authorized representative data that forms the basis for the premium rates that the managed care plan seeks to charge the enrollee in the next enrollment period.

(b) The enrollee or authorized representative may request all pertinent information as to the rate including, but not limited to, the managed care plan's data for the enrollee relating to:

- (1) loss trend;
- (2) loss ratio; and
- (3) annual financial statements of the managed care plan;
[Eff] (Auth: HRS §431:2-201) (Imp: HRS §431:14F-110)

§16-171-202 Accident and health or sickness filing requirement. Notwithstanding the need to have a plan qualified under section 393-7, HRS, a managed care plan shall file accident and health or sickness insurance contract rates with the commissioner that comply with the Title 24, HRS. [Eff] (Auth: HRS §§431:2-201, 432:1-102, 432D-2) (Imp: HRS §431:14F-105)

SUBCHAPTER 3

LICENSING REQUIREMENTS

§16-171-301 Term of license. The term of the license granted pursuant to articles 9 and 9A of chapter 431, HRS, and article 2 of chapter 432, HRS, shall be not less than one year and not more than three years. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9-232, 431:9A-107, 432:2-609)

§16-171-302 License renewal or extension for a natural person. (a) The day for renewal or extension of a license issued to a natural person pursuant to articles 9 and 9A of chapter 431, HRS, and article 2 of chapter 432, HRS, shall be the sixteenth day of the licensee's birth month.

(b) The year for renewal or extension of a license issued pursuant to articles 9 and 9A of chapter 431, HRS, and article 2 of chapter 432, HRS, to a natural person born in even-numbered months shall be the next succeeding even numbered year. The year for renewal or extension of a license issued pursuant to articles 9 and 9A of chapter 431, HRS, and article 2 of chapter 432, HRS, to a natural person born in odd-numbered months shall be the next succeeding odd numbered year.

(c) The term of a license issued pursuant to articles 9 and 9A of chapter 431, HRS, and article 2 of chapter 432, HRS, shall be not less than one year and no more than three years, as determined by the commissioner.

(d) This section shall not apply to provider certificates issued for continuing education courses. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:9-232, 431:9A-107, 432:2-609)

§16-171-303 Term of surplus lines broker; license. The term of the surplus lines broker license issued pursuant to article 8 of chapter 431, HRS, shall be the same as the licensee's producer license issued pursuant to article 9A of chapter 431, HRS. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:8-310, 431:9A-108)

§16-171-304 License renewal or extension for a business entity. (a) The day for renewal or extension of a license issued to a business entity pursuant to articles 9 and 9A of chapter 431, HRS, shall be the sixteenth day of April for a nonresident licensee and the sixteenth day of July for a resident licensee.

(b) The year for renewal or extension for a nonresident business entity licensee shall be the next succeeding even numbered year.

(c) The year for renewal or extension for a resident business entity licensee shall be the next succeeding odd numbered year.

(d) The term of the license issued to a business entity pursuant to articles 9 and 9A of chapter 431, HRS, shall be not less than one year and no more than three years, as determined by the commissioner.

(e) This section shall not apply to provider certificates issued for continuing education courses. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:9A-106, 431:9A-107)

§16-171-305 Payment of licensing fees and penalties. Prior to the issuance, renewal, or extension of a license, the licensee shall pay all applicable fees and penalties. A service fee, consisting of annual fees for each full year or partial year included in the term, shall be paid by the licensee. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:9-232, 431:9A-107, 431:9A-107.5, 432:2-609)

§16-171-306 Continuing education course credit. Credits earned for a continuing education course shall be valid for twenty-four months after the course provider determines that the licensee has successfully completed all course requirements. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9A-124, 431:9A-155)

§16-171-307 Continuing education requirement for licensee that acquires additional line of authority. Except for nonresident licensees subject to the reciprocity provisions of section 431:9A-116(b), HRS, a licensed producer or fraternal benefit society producer who acquires an additional line of insurance through the examination process within the twenty-three months preceding the producer's renewal or extension date shall complete the continuing education requirement for the additional acquired line by the producer's next succeeding renewal or extension date. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9A-124, 431:9A-142, 431:9A-155, 432:2-609)

§16-171-308 Continuing education requirement for licensee reactivating a line of authority. Except for nonresident licensees subject to the reciprocity provisions of section 431:9A-116(b), HRS, a licensed producer or fraternal benefit society producer who applies to reactivate a line of authority shall fulfill the continuing education requirement for the line of authority prior to its reactivation. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9A-124, 431:9A-142, 431:2-609)

§16-171-309 Continuing education prerequisite for business entity license renewal. Unless the commissioner grants an extension of time in advance of the due date, a business entity subject to the continuing education requirements of article 9A of chapter 431, HRS, shall complete its continuing education requirement through its designated representative. Failure by the designated representative to complete the continuing education requirement on behalf of the business entity shall result in the business entity's and, if applicable, the designated representative's license being automatically placed on "inactive" status. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9A-106, 431:9A-124, 431:9A-142)

§16-171-310 Application for approval of a continuing education course. (a) A continuing education course provider seeking approval of a continuing education course shall submit an application to the commissioner at least sixty days prior to the proposed date the course will be offered.

(b) A continuing education course provider shall obtain the commissioner's prior approval for the course before advertising or soliciting for that course. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §431:9A-153)

§16-171-311 Passing examination score. An applicant for licensure under article 9 or article 9A of chapter 431, HRS, or article 2 of chapter 432, HRS, shall obtain a score of seventy-five or higher to pass the examination. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:9-206, 431:9A-105, 432:2-609)

§16-171-312 Term of managing general agent license. The term of licensure for a managing general agent license issued pursuant to article 9C of chapter 431, HRS, shall be the same as the licensee's producer license issued pursuant to article 9A of chapter 431, HRS. [Eff _____] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:9A-107, 431:9A-108, 431:9C-102)

§16-171-313 Managing general agent's bond or errors and omissions policy. A managing agent shall ensure that the bond or errors and omissions policy required by section 431:9C-102(c), HRS, shall remain in force until the commissioner approves its discharge, or until cancelled by the issuer. Without prejudice to any

liability accrued prior to cancellation, the issuer may cancel a bond or errors and omissions policy upon sixty days advance notice in writing filed with the commissioner. The issuer shall include this notice requirement in its contracts with the Managing General Agent. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §431:9C-102)

§16-171-314 Term of reinsurance intermediary broker and reinsurance intermediary manager licenses. The term of licensure for reinsurance intermediary broker and reinsurance intermediary manager licenses issued pursuant to article 9B of chapter 431, HRS, shall be the same as the licensee's producer license issued pursuant to article 9A of chapter 431, HRS. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §§431:7-101, 431:9A-107, 431:9A-108, 431:9B-102)

§16-171-315 Reinsurance intermediary manager's bond or errors and omissions policy. A reinsurance intermediary manager shall ensure that the bond or errors and omissions policy required by section 431:9B-102(c), HRS, shall remain in force until the commissioner approves its discharge, or until cancelled by the issuer. Without prejudice to any liability accrued prior to cancellation, the issuer may cancel a bond or errors and omissions policy upon sixty days advance notice in writing filed with the commissioner. The issuer shall include this notice requirement in its contracts with the reinsurance intermediary-manager. [Eff] (Auth: HRS §§431:2-201, 431:9A-118) (Imp: HRS §431:9B-102)

§16-171-316 Term of vehicle protection product warrantors registrations. The term of vehicle protection product warrantors' registrations issued pursuant to chapter 481R, HRS, shall be for not more than one year and, unless renewed, shall automatically expire on December 31 of each year. [Eff] (Auth: HRS §§431:2-201, 481R-3) (Imp: HRS §§431:7-101, 481R-4)

§16-171-317 Term of service contract provider registrations. The term of service contract providers' registrations issued pursuant to chapter 481X, HRS, shall be for not more than one year and, unless renewed, shall automatically expire on July 15 of each year. [Eff] (Auth: HRS §§431:2-201, 481X-11) (Imp: HRS §§431:7-101, 481X-3)

SUBCHAPTER 4

CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

§16-171-401 Purpose. The purpose of this subchapter is to authorize the use of the 2001 Commissioners' Standard Ordinary (CSO) Mortality Table for the computation of the minimum reserve standard for nonforfeiture and valuation of life insurance policies and contracts. [Eff _____] (Auth: HRS §§431:2-201, 431:5-401) (Imp: HRS §§431:5-307(c)(2)(A), 431:10D-104(e)(8)(G)(vii))

§16-171-402 Definitions. As used in this section:

"2001 CSO mortality table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries Commissioners' Standard Ordinary ("CSO") Task Force from the valuation basic mortality table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners in December 2002 (the 2001 CSO mortality table is included in the Proceedings of the NAIC (2ND quarter 2002)). Unless the context indicates otherwise, the "2001 CSO mortality table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

"2001 CSO mortality table (F)" means that portion of the 2001 CSO mortality table that consists of the rates of mortality for female lives.

"2001 CSO mortality table (M)" means that portion of the 2001 CSO mortality table that consists of the rates of mortality for male lives from the 2001 CSO mortality table.

"Composite mortality tables" means that portion of the 2001 CSO mortality table that consists of rates of mortality that do not distinguish between smokers and nonsmokers.

"Smoker and nonsmoker mortality tables" means that portion of the 2001 CSO mortality table that consists of separate rates of mortality for smokers and nonsmokers. [Eff _____] (Auth: HRS §§431:2-201, 431:5-401) (Imp: HRS §§431:5-307(c)(2)(A), 431:10D-104(e)(8)(G)(vii))

§16-171-403 2001 CSO Mortality Table. (a) At the election of the insurer and for any one or more of the insurer's specified plans of insurance and subject to the conditions stated in section 16-171-404, Hawaii Administrative Rules ("HAR"), the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005, and in sections 431:5-307 and 431:10D-104, HRS, as applicable. If the insurer elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(b) Subject to the conditions stated in section 16-171-404, HAR, insurers shall use the 2001 CSO Mortality Table in determining minimum standards for policies issued on and after January 1, 2009, in sections 431:5-307 and 431:10D-104, HRS. [Eff _____] (Auth: HRS §§431:2-201, 431:5-401) (Imp: HRS §§431:5-307(c)(2)(A), 431:10D-104(e)(8)(G)(vii))

§16-171-404 Conditions. (a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

- (1) Composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits;
- (2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by sections 431:5-307 and 431:10D-104, HRS, and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or
- (3) Smoker and nonsmoker mortality to determine minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers, the insurers shall use the composite mortality tables.

(c) For the purpose of determining minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the insurer for each plan of insurance, be used in its select and ultimate form.

(d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for an insurer, the actuarial opinion in the annual statement filed by the insurer with the commissioner shall be based on an asset adequacy analysis as specified in sections 431:5-307 and 431:10D-104, HRS. Upon application, the commissioner may exempt an insurer from this requirement only if it does business in this State and in no other state. [Eff _____] (Auth: HRS _____)

§§431:2-201, 431:5-401) (Imp: HRS §§ 431:5-307(c)(2)(A), 431:10D-104(e)(8)(G)(vii))

§16-171-405 Gender-Blended Tables. (a) For any ordinary life insurance policy delivered or issued for delivery in this State on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the insurer for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the subchapter.

(b) The insurer may choose from among the blended tables within the 2001 CSO Mortality Table by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

(c) It shall not, in and of itself, be a violation of article 13 of chapter 431, HRS, for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis." [Eff _____] (Auth: HRS §§431:2-201, 431:5-401) (Imp: HRS §§431:5-307(c)(2)(A), 431:10D-104(e)(8)(G)(vii))

2. The adoption of chapter 16-171, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

J. P. SCHMIDT
Insurance Commissioner

APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Adoption of Chapter 16-171
Hawaii Administrative Rules

1. Chapter 16-171, Hawaii Administrative Rules, entitled
"Miscellaneous Insurance Rules" is adopted to read as follows:_____
